

MINUTES OF THE PUBLIC HEALTH COUNCIL

Meeting of November 13, 2013

MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH

**PUBLIC HEALTH COUNCIL OF THE
MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH
Henry I. Bowditch Public Health Council Room, 2nd Floor
250 Washington Street, Boston MA**

Docket: Wednesday, November 13, 2013, 9:00 AM

1. ROUTINE ITEMS:

- a. Introductions
- b. Record of the Public Health Council Meeting of October 16, 2013
(Approved)

2. DETERMINATION OF NEED:

- Project Number 4-3C27, Brigham and Women's Hospital—Renovations and new construction to upgrade the hospital's Neonatal Intensive Care Unit
(Approved)
- Project Number 4-3C29: Reliant New England Rehabilitation Hospital (transfer of ownership) **(Approved)**
- Project Number 4-3C30: Reliant Braintree Rehabilitation Hospital (transfer of ownership) **(Approved)**

3. DRAFT REGULATION:

Proposed Rescission of 105 CMR 800.000: *Requests and Consent for Anatomical Donations*, and amendment of 105 CMR 130.000, *Hospital Licensure*, pursuant to M.G.L. c. 113, §§ 7 through 13, and Chapter 39 of the Acts of 2012
(Informational Briefing)

4. FINAL REGULATION:

Proposed rescission of 105 CMR 375.000: *Required Serological Test for Syphilis and Optional Serological Test for Rubella Prior to Issuance of a Premarital Medical Certificate*, pursuant to repeal of M.G.L. c. 207, § 28A **(Approved)**

5. FINAL REGULATION:

Proposed Amendments to 105 CMR 300.000: *Reportable Diseases, Surveillance, and Isolation and Quarantine Regulations*, pursuant to M.G. L. Chapter 111
(Approved)

6. INFORMATIONAL PRESENTATION:

Update on Seasonal Influenza

Public Health Council

Presented below is a summary of the meeting, including time-keeping, attendance and votes cast.

Date of Meeting: Wednesday, November 13, 2013

Beginning Time: 9:07 AM

Ending Time: 11:02 AM

Attendance and Summary of votes

Board Member	Attended	Item 1 b.	Item 2	Item 2 b.	Item 2 c.	Item 4	Item 5
		Record of the Public Health Council Meeting of October 16, 2013	Project Number 4-3C27, Brigham and Women's Hospital—Renovations and new construction to upgrade the hospital's Neonatal Intensive Care Unit	Project Number 4-3C29: Reliant New England Rehabilitation Hospital (transfer of ownership)	Project Number 4-3C30: Reliant Braintree Rehabilitation Hospital (transfer of ownership)	Proposed rescission of 105 CMR 375.000: Required Serological Test for Syphilis and Optional Serological Test for Rubella Prior to Issuance of a Premarital Medical Certificate, pursuant to repeal of M.G.L. c. 207, § 28A	Proposed Amendments to 105 CMR 300.000: Reportable Diseases, Surveillance, and Isolation and Quarantine Regulations, pursuant to M.G. L. Chapter 111
Cheryl Bartlett	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Edward Bernstein	Yes	Yes	Yes	Yes	Yes	(2 nd)/Yes	Yes
Derek Brindisi	No	---	---	---	---	---	---
Harold Cox	Yes	Yes	Yes	Yes	Yes	Yes	Yes
John Cunningham	Yes	Yes	(2 nd)/Yes	Yes	Yes	Yes	Yes
Michele David	Yes	Yes	Yes	Recusal	Recusal	Yes	Yes
Michael Kneeland	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Paul Lanzikos	Yes	Yes	Yes	Yes	(M)/Yes	Yes	Yes
Denis Leary	Yes	---	---	Yes	Yes	Yes	Yes
Lucilia Prates-Ramos	Yes	---	---	Yes	Yes	Yes	Yes
Jose Rafael Rivera	Yes	(M)/Yes	Yes	(2 nd)/Yes	Yes	Yes	(2 nd)/Yes
Meredith Rosenthal	Yes	---	---	Yes	(2 nd)/Yes	Yes	Yes
Alan Woodward	Yes	(2 nd)/Yes	Yes	(M)/Yes	Yes	Yes	Yes
Michael Wong	Yes	Yes	(M)/Yes	Yes	Yes	(M)/Yes	(M)/Yes
Summary	13 members attended	10 Approved with votes	10 Approved with votes	12 Approved with votes	12 Approved with votes	13 Approved with votes	13 Approved with votes

(M): Made motion

(2nd): Seconded motion

PROCEEDINGS

A regular meeting of the Massachusetts Department of Public Health's Public Health Council (M.G.L. C17, §§ 1, 3) was held on Wednesday, November 13, 2013 at the Massachusetts Department of Public Health, 250 Washington Street, Henry I. Bowditch Public Health Council Room, 2nd Floor, Boston, Massachusetts 02108.

Members present were: Department of Public Health Commissioner Cheryl Bartlett (chair), Dr. Edward Bernstein, Mr. Harold Cox, Dr. John Cunningham, Mr. Paul Lanzikos, Mr. Jose Rafael Rivera, Dr. Alan Woodward, Mr. Denis Leary, Dr. Michele David, Dr. Michael Kneeland, Dr. Michael Wong, Ms. Lucilia Prates-Ramos (arrived (9:25 am), and Dr. Meredith Rosenthal (arrived 9:22 am).

Absent members were: Mr. Derek Brindisi

Also in attendance was Attorney Donna Levin, General Counsel, Massachusetts Department of Public Health.

Commissioner Bartlett called the meeting to order at **9: 07 AM** and reviewed the agenda.

ITEM 1b: Record of the Public Health Council Meeting of October 16, 2013

Commissioner Bartlett asked if there were any changes to the minutes of the Public Health Council meeting of October 16, 2013. No changes were recommended. Mr. Rivera made the motion to approve the minutes of October 16, 2013. The motion was seconded by Dr. Woodward. The minutes were approved by ten members voting in the affirmative. There were no abstentions or recusals.

ITEM 2: DON: DETERMINATION OF NEED: Project Number 4-3C27, Brigham and Women's Hospital—Renovations and new construction to upgrade the hospital's Neonatal Intensive Care Unit

Bernard Plovnick, Director, Determination of Need program, and Jere Page, Senior Program Analyst, DoN program, presented Project Number 4-3C27, Brigham and Women's Hospital – Renovations and new construction to upgrade the hospital's Neonatal Intensive Care Unit. There was no discussion of the matter.

Dr. Wong moved to approve Project Number 4-3C27, Brigham and Women's Hospital—Renovations and new construction to upgrade the hospital's Neonatal Intensive Care Unit. The motion was seconded by Mr. Cunningham. The DoN was approved with ten members voting in the affirmative. There were no abstentions or recusals.

ITEM 2b: DON: DETERMINATION OF NEED: Project Number 4-3C29: Reliant New England Rehabilitation Hospital (transfer of ownership) Proposed Amendments to 105 CMR 223.000: *Pediatric Immunization Program Assessment*, Pursuant to Chapter 139 of the Acts of 2012

Bernard Plovnick, Director, Determination of Need program, and Jere Page, Senior Program Analyst, DoN program, presented, Project Number 4-3C29, Reliant New England Rehabilitation Hospital

(transfer of ownership) Proposed Amendments to 105 CMR 223.000: *Pediatric Immunization Program Assessment*, Pursuant to Chapter 139 of the Acts of 2012.

Mr. Chester Crouch, CEO of Reliant Hospital Partners, was invited to answer questions from PHC members. Discussion included consideration of Reliant's presence in other states (they operate in Ohio and Texas); performance (they discharge 75 percent of patients back to home); quality metrics (they rank in top 25th percentile on CMS measures); and relations involving corporate and local management and local communities, including representation of community residents on hospital boards. Mr. Crouch stated Reliant depends on local leadership to manage facilities, using metrics and guidance provided by corporate management. He pledged Massachusetts hospitals will conduct community health needs assessments, while noting that most patients are referred from acute hospitals, rather than from local communities. Mr. Rivera encouraged Mr. Crouch to work with the DPH Office of Health Equity to address multiple dimensions of health disparities reduction, rather than only language. Dr. Woodward recommended that a non-employee patient advocate be appointed to the hospital board. Mr. Lanzikos concurred and recommended further that the hospital create a community advisory board. Ms. Katherine Potter, general counsel for Five Star, the current management group, provided details about current board representation. Mr. Crouch pledged to accept the PHC recommendation to expand community representation on the hospital board.

Dr. Woodward moved to approve Project Number 4-3C29: Reliant New England Rehabilitation Hospital (transfer of ownership) Proposed Amendments to 105 CMR 223.000: *Pediatric Immunization Program Assessment*, Pursuant to Chapter 139 of the Acts of 2012. The motion was seconded by Mr. Rivera. The DoN was approved with twelve members voting in the affirmative and one recusal (Dr. David).

ITEM 2c: DON: DETERMINATION OF NEED: Project Number 4-3C30: Reliant Braintree Rehabilitation Hospital (transfer of ownership)

Bernard Plovnick, Director, Determination of Need program, and Jere Page, Senior Program Analyst, DoN program, presented, Project Number 4-3C30: Reliant Braintree Rehabilitation Hospital (transfer of ownership). There was no discussion of the matter.

Mr. Lanzikos moved to approve Project Number 4-3C30: Reliant Braintree Rehabilitation Hospital (transfer of ownership). The motion was seconded by Dr. Rosenthal. The DoN was approved with twelve members voting in the affirmative and one recusal (Dr. David).

ITEM 3: INFORMATIONAL BRIEFING: Proposed Rescission of 105 CMR 800.000: *Requests and Consent for Anatomical Donations*, and amendment of 105 CMR 130.000, *Hospital Licensure*, pursuant to M.G.L. c. 113, §§ 7 through 13, and Chapter 39 of the Acts of 2012

Carol Balulescu, Deputy General Counsel, presented the proposed rescission to 105 CMR 800.000: *Requests and Consent for Anatomical Donations*, and amendment of 105 CMR 130.000, *Hospital Licensure*, pursuant to M.G.L. c. 113, §§ 7 through 13, and Chapter 39 of the Acts of 2012.

Mr. Lanzikos asked about authority over organ donations. Ms. Balulescu explained much of it is federally regulated, in coordination with national organ donation orgs. Dr. Cunningham asked why

the regulation includes a definition of death. Ms. Alex Glasier, general counsel of the New England Donor Bank, was invited to testify and explained the regulation does not create a new definition or standard of death, rather, it incorporates current standards and leaves a regulatory definition intact, which would otherwise be removed with the proposed rescission. Dr. Woodward asked about administrative authority and procedures. Ms. Glasier provided information about federal regulatory standards and said that while the Uniform Anatomical Gift Act has not been passed in Massachusetts, the definition of death in the proposed regulation conforms with that law.

ITEM 4: FINAL REGULATION: Proposed rescission of 105 CMR 375.000: Required Serological Test for Syphilis and Optional Serological Test for Rubella Prior to Issuance of a Premarital Medical Certificate, pursuant to repeal of M.G.L. c. 207, § 28A

Kevin Cranston, Director, Bureau of Infectious Disease and Dr. Alfred DeMaria, Medical Director and State Epidemiologist, Bureau of Infectious Disease presented the proposed rescission of 105 CMR 375.000: Required Serological Test for Syphilis and Optional Serological Test for Rubella Prior to Issuance of a Premarital Medical Certificate, pursuant to repeal of M.G.L. c. 207, § 28A.

Dr. Wong moved to approve the proposed rescission of 105 CMR 375.000: Required Serological Test for Syphilis and Optional Serological Test for Rubella Prior to Issuance of a Premarital Medical Certificate, pursuant to repeal of M.G.L. c. 207, § 28A. The motion was seconded by Dr. Bernstein and approved unanimously. Voting in the affirmative were thirteen members.

ITEM 5: FINAL REGULATION: Proposed Amendments to 105 CMR 300.000: Reportable Diseases, Surveillance, and Isolation and Quarantine Regulations, pursuant to M.G. L. Chapter 111

Kevin Cranston, Director, Bureau of Infectious Disease, Dr. Alfred DeMaria, Medical Director and State Epidemiologist, Bureau of Infectious Disease, and Gillian Haney, Director, Office of Integrated Surveillance and Informatics Services, presented the Proposed Amendments to 105 CMR 300.000: *Reportable Diseases, Surveillance, and Isolation and Quarantine Regulations*, pursuant to M.G. L. Chapter 111.

Dr. Wong recommended adding novel corona virus to the reporting requirements, and Dr. DeMaria accepted the recommendation as a friendly amendment. Mr. Cox asked about utilization of the Massachusetts Virtual Epidemiologic Network (MAVEN) and barriers to its use by local Boards of Health. Ms. Haney reported 90 percent of communities are using MAVEN, and Mr. Cranston reported DPH is in active discussion with the Boston Public Health Commission about resolving issues for combined reporting with BOS MAVEN. Commissioner Bartlett said that she would be meeting soon with Boston officials to discuss the matter. Dr. Woodward asked whether regionalization of local public health was helping with MAVEN utilization, and Ms. Haney replied that the creation of new public health districts has helped. Dr. Woodward also noted the need for more information to be disseminated food borne disease testing and reporting.

Dr. Wong moved to approve the Proposed Amendments to 105 CMR 300.000: *Reportable Diseases, Surveillance, and Isolation and Quarantine Regulations*, pursuant to M.G. L. Chapter 111. The motion was seconded by Mr. Rivera and approved unanimously. Voting in the affirmative were thirteen members.

ITEM 6: INFORMATIONAL PRESENTATION: Update on Seasonal Influenza

Kevin Cranston, Director, Bureau of Infectious Disease, Dr. Alfred DeMaria, Medical Director and State Epidemiologist, Bureau of Infectious Disease, Michael Pentella, PhD, Director, Bureau of Laboratory Sciences, and Madeleine Biondolillo, MD, Director, Bureau of Health Care Safety and Quality, provided an informational presentation on Seasonal Influenza

Discussion focused on strategies to improve vaccination rates of employees in hospitals. Dr. Woodward cited the ongoing need for earlier reporting and advance planning to improve compliance by poorly performing institution and recommended requiring mandatory vaccination. He requested that PHC receive a very early look at the data in 2014, to help decide whether to pursue a regulatory approach. He also recommended sending communications to institutions whose vaccination rates have lagged or dropped. Dr. Wong described successful strategies at Brigham and Women's Hospital and asked whether DPH tracks distribution and use of the many new types of flu vaccine. Dr. DeMaria replied that DPH cannot get a granular look at who is using which vaccines, because a lot of the information is proprietary. Mr. Cox suggested we should consider a mandate now for the next flu season. Dr. DeMaria replied he thinks every health care worker should be vaccinated; we should be achieving 98-99% compliance, though we do not know what herd immunity is needed for population protection. Voluntary compliance is labor intensive; success depends on efforts of particular champions, so voluntary compliance leaves us vulnerable. Mr. Cox asked for a staff recommendation on whether the PHC should take more stringent action and adopt a mandate. Mr. Rivera asked whether there has been any outreach to community health workers (CHWs), noting their value in working with vulnerable populations. Mr. Curran reported that CHWs employed within DPH immigrant and refugee health programs are involved, and Dr. Biondolillo agreed about the potential value of increasing outreach to CHWs. Dr. David asks about outreach to VNAs and LTC facilities. MB reports this year we're requiring reporting from non-acute hospitals and long term care facilities, noting reported trouble with flu vaccination rates for long term care staff. Mr. Lanzikos suggested outreach to ombudsmen programs to encourage compliance from bottoms up approach and also suggested redundancy of communication—not just to facility CEOs, but also to medical directors, chief operating officers, risk managers, and others. Dr. Woodward, citing tremendous progress from when we had vaccine supply shortages and average 38% compliance, asked about flu vaccinations by pharmacies. Dr. DeMaria noted pharmacy distribution has required adjustments in local public health department practices and targets for vaccination. Dr. Woodward asked for a report in April or May, 2014, and for DPH to be prepared to move ahead on a mandate, if warranted, for next year. Commissioner Bartlett committed to provide information in April. Dr. Bernstein asked if we have data about the efficacy of mandatory programs elsewhere and etiological diagnosis. Dr. DeMaria agreed such information would be helpful. Mr. Cox asked whether DPH has updated data about racial and ethnic vaccination rates. Dr. DeMaria cited a recent report suggesting parity but noted H1N1 case reporting provided more detail than available now. Dr. Cunningham asked about multi-use vaccines. Dr. DeMaria said that is being explored, but flu is so genetically modifiable, it will be very difficult to develop such an approach that would be efficacious year-to-year.

The meeting adjourned at 11:02AM on a motion by Dr. Kneeland and passed unanimously without discussion.

LIST OF DOCUMENTS PRESENTED TO THE PHC FOR THIS MEETING:

1. Docket of the meeting
2. Public Health Council Meeting Minutes from October 16, 2013

3. Determination of Need Pending Projects List
4. Staff Summary for Determination of Need by the Public Health Council – Project Number 4-3C27, Brigham and Women’s Hospital—Renovations and new construction to upgrade the hospital’s Neonatal Intensive Care Unit
5. Staff Summary for Determination of Need by the Public Health Council – Project Number 4-3C29: Reliant New England Rehabilitation Hospital (transfer of ownership)
6. Staff Summary for Determination of Need by the Public Health Council – Project Number 4-3C30: Reliant Braintree Rehabilitation Hospital (transfer of ownership)
7. Memo of Rescission of 105 CMR 8000.000: Requests and Consent for Anatomical Donations and amendment of 105 CMR 130.000, Hospital Licensure
8. Memo of Proposed Rescission of 105 CMR 375.000: Required Serological Test for Syphilis and Optional Serological Test for Rubella Prior to Issuance of a Premarital Medical Certificate.
9. Memo of Proposed Amendments to 105 CMR 300.000: Reportable Diseases, Surveillance, and Isolation and Quarantine Regulations.
10. Copies of all power point presentations (emailed upon conclusion of the meeting)

Commissioner Cheryl Bartlett, RN, Chair